

Exhibit 3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
MASTER DOCKET 18-MD-2865 (LAK)
CASE NO. 18-CV-09797

IN RE:)
)
)

CUSTOMS AND TAX ADMINISTRATION OF)
THE KINGDOM OF DENMARK)
(SKATTEFORVALTNINGEN) TAX REFUND)
SCHEME LITIGATION)
)
-----)

C O N F I D E N T I A L

REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
EXAMINATION OF
SHAHAB HASHEMI
VOLUME II

DATE: October 8, 2021

REPORTED BY: MICHAEL FRIEDMAN, CCR

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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 TRANSCRIPT of the videotaped deposition</p> <p>6 of the witness, called for Oral Examination in the</p> <p>7 above-captioned matter, said deposition being taken</p> <p>8 by and before MICHAEL FRIEDMAN, a Notary Public and</p> <p>9 Certified Court Reporter of the State of New Jersey,</p> <p>10 via WEBEX, ALL PARTIES REMOTE, on October 8, 2021,</p> <p>11 commencing at approximately 7:02 in the morning.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES:</p> <p>2</p> <p>3 HUGHES, HUBBARD & REED</p> <p>4 One Battery Park Plaza</p> <p>5 New York, NY 10004</p> <p>6 BY: NEIL OXFORD, ESQ.</p> <p>7 BILL MAGUIRE, ESQ.</p> <p>8 MARC A. WEINSTEIN, ESQ.</p> <p>9 CAROLYN HARBUS, ESQ.</p> <p>10 JAMES HENSELER, ESQ.</p> <p>11 JOHN MCGOEY, ESQ.</p> <p>12 VALERIE CAHAN, ESQ.</p> <p>13 ERIN PAMUKCU, ESQ.</p> <p>14 VICTOR SANDOVAL, ESQ.</p> <p>15 MAUREEN HOWLEY, ESQ.</p> <p>16 GREGORY FARRELL, ESQ.</p> <p>17 ELIZABETH ZHOU, ESQ.</p> <p>18 DEBBIE PLACID, ESQ.</p> <p>19 SIOBHAN D'ANGELO, ESQ.</p> <p>20 Via VTC</p> <p>21 Attorneys for SKAT</p> <p>22</p> <p>23 HANAMIRIAN LAW FIRM</p> <p>24 40 E. Main Street</p> <p>25 Moorestown, NJ 08057</p> <p>BY: JOHN M. HANAMIRIAN, ESQ.</p> <p>ELZA GRIGORYAN</p> <p>Via VTC</p> <p>Attorneys for Acorn Capital</p> <p>THE MOORE TAX LAW GROUP</p> <p>11 Broadway</p> <p>New York, NY 10004</p> <p>BY: ZHANNA A. ZIERING, ESQ.</p> <p>Via VTC</p> <p>Attorneys for Klugman and Kenning</p> <p>KAPLAN RICE</p> <p>142 West 57th Street</p> <p>New York, NY 10019</p> <p>BY: Y. KATIE WANG, ESQ.</p> <p>MICHELLE RICE, ESQ.</p> <p>Via VTC</p> <p>Attorneys for Albedo, et al</p>
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1	A P P E A R A N C E S:	1	ALSO PRESENT: JOSE RIVERA, Videographer
2		2	KIRSTEN MARIE DONATO, ESQ.
3	KATTEN		KAMMERADVOKATEN POUL SCHMITH
4	575 Madison Avenue	3	
5	New York, NY 10022		CHARLOTTE WOODWARD
6	BY: DAVID GOLDBERG, ESQ.	4	ROSENBLATT LAW
7	MICHAEL ROSENAFT, ESQ.	5	KATRINE HOVGAARD BØEGH, ESQ.
8	Via VTC	6	CHRISTINE P. VINTHOR
9	Attorneys for Klugman	7	CHRISTIAN BØLOW
10	SEWARD & KISSEL	8	MARISE HØRBY SALVESEN
11	One Battery Park Plaza	9	ANNE CHRISTINE K. EGHOLM
12	New York, NY 10004	10	ANNA L'HOMMEDIEU
13	BY: SHREY SHARMA, ESQ.	11	JENS KJAEGAARD
14	THOMAS R. HOOPER, ESQ.	12	JOHN ACKLEY
15	MARK J. HYLAND, ESQ.	13	LUTHER KISANGA
16	Via VTC	14	
17	Attorneys for Bernard Tew	15	
18	LAW OFFICES OF SHELDON S. TOLL	16	
19	2000 Town Center	17	
20	Southfield, MI 48075	18	
21	BY: SHELDON S. TOLL, ESQ.	19	
22	Via VTC	20	
23	Attorneys for Hoffmeister	21	
24	MORVILLO, ABROMOWITZ, GRAND, IASON & ANELLO	22	
25	565 5th Avenue	23	
	New York, NY 10017	24	
	BY: RICHARD WEINBERG, ESQ.	25	
	Attorneys for Glove Pension Plan, Mill River		
	Pension Plan, Traden Investment Pension Plan		
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1	I N D E X	1	E X H I B I T S (CONTINUED)
2		2	
3	WITNESS NAME	3	NO.
4	SHAHAB HASHEMI	4	Exhibit 4391
5	Examination By:	5	Exhibit 4385
6	By Mr. Oxford	6	Exhibit 4384
7	By Mr. Kaplan	7	Exhibit 4400
8	By Mr. Blessington	8	Exhibit 4401
9		9	Exhibit 4395
10	*****	10	Exhibit 4366
11		11	
12	E X H I B I T S	12	Exhibit 4423
13		13	Exhibit 4424
14	NO.	14	Exhibit 4430
15	Exhibit 4374-4375	15	Exhibit 4259
16	ED&F 45042-45086 -	16	Exhibit 4210
17	ED&F 44966-44984	17	Exhibit 4350
18	Exhibit 4376-4377	18	Exhibit 4353
19	ED&F 190637-190639 -	19	Exhibit 4354-4355
20	ED&F 190382-190384	20	
21	Exhibit 4378	21	Exhibit 4356
22	Exhibit 4381	22	
23	Exhibit 4382	23	
24	Exhibit 4383	24	
25		25	

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1	E X H I B I T S (CONTINUED)			1	- - -		
2				2	Deposition Support Index		
3	NO.		PAGE	3	- - -		
4	Exhibit 4357	ED&F 394429-394436	382	4			
5	Exhibit 4358	ED&F 338068, ED&F 380816	384	5	Direction to Witness Not to Answer		
6				6	Page Line	Page Line	Page Line
7	Exhibit 4338	ED&F 495359-495362	395	7	None		
8	Exhibit 4339	ED&F 346815-346818	397	8			
9	Exhibit 4411	ED&F 444029-444033	408	9	Request for Production of Documents		
10	Exhibit 4165	ED&F 444950-444954	408	10	Page Line	Page Line	Page Line
11	Exhibit 4271	ED&F 216655-216668	409	11	None		
12	Exhibit 4418	ED&F 53123-53125	411	12			
13				13	Stipulations		
14				14	Page Line	Page Line	Page Line
15				15	None		
16				16			
17				17	Questions Marked		
18				18	Page Line	Page Line	Page Line
19				19	None		
20				20			
21				21			
22				22			
23				23			
24				24			
25				25			
* * * * *							

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1	THE COURT REPORTER: My name is			1	THE VIDEOGRAPHER: We are now on		
2	Michael Friedman, a Certified Shorthand			2	record. This is the continued remote		
3	Reporter. This deposition is being held			3	video-recorded deposition of Shahab		
4	via videoconferencing equipment.			4	Hashemi.		
5	The witness and reporter are not in			5	Today is Friday, October 8, 2021.		
6	the same room. The witness will be			6	The time is now 7:02 a.m. New York time.		
7	sworn in remotely pursuant to agreement			7	We're here in the matter of In Re,		
8	of all parties. The parties stipulate			8	Customs and Tax Administration of the		
9	that the testimony is being given as if			9	Kingdom of Denmark Et Al. All counsel		
10	the witness was sworn in person.			10	have been noted on record.		
11	///			11	My name is Jose Rivera, remote		
12	///			12	video technician, on behalf of Gregory		
13	///			13	Edwards LLC. At this time, will the		
14	///			14	reporter, Michael Friedman, on behalf of		
15	///			15	Gregory Edwards LLC, please re-swear in		
16	///			16	the witness.		
17	///			17	///		
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<p style="text-align: right;">Page 249</p> <p>1 PROCEEDINGS</p> <p>2</p> <p>3 SHAHAB HASHEMI,,</p> <p>4 called as a witness, having been first</p> <p>5 duly sworn according to law, testifies as follows:</p> <p>6 * * * * *</p> <p>7 CONTINUED EXAMINATION BY MR. OXFORD:</p> <p>8 Q Good afternoon and good morning,</p> <p>9 Mr. Hashemi.</p> <p>10 Could you please turn back to</p> <p>11 Binder 1, Tab 28, which is the Notice of</p> <p>12 Deposition?</p> <p>13 A Okay.</p> <p>14 Q You can turn to Topic 23, please.</p> <p>15 A Okay.</p> <p>16 Q Topic 23 concerns Annex E.</p> <p>17 Correct?</p> <p>18 A So I missed the beginning of your</p> <p>19 sentence.</p> <p>20 Q Topic 23 concerns Annex E.</p> <p>21 Correct?</p> <p>22 A I can see that, yes.</p> <p>23 Q Great.</p> <p>24 Tell me what you did to prepare</p> <p>25 yourself on this topic.</p>	<p style="text-align: right;">Page 250</p> <p>1 A I reviewed tax vouchers -- sorry,</p> <p>2 apologies. I reviewed trade packs in</p> <p>3 relation to Annex E and I asked questions</p> <p>4 about it.</p> <p>5 Yes, I asked questions about it.</p> <p>6 Q Okay. Did you review any other</p> <p>7 documents other than trade packs concerning</p> <p>8 Topic 23?</p> <p>9 A I may have done, but I don't recall</p> <p>10 right now.</p> <p>11 Q Okay. Who did you ask questions</p> <p>12 of?</p> <p>13 A I recall asking questions to</p> <p>14 ED&F Man's attorneys.</p> <p>15 Q And what questions did you ask?</p> <p>16 A I don't recall specifically the</p> <p>17 questions I asked, but it would have been in</p> <p>18 relation to the substantive trades of Annex E</p> <p>19 and the questions I may have had from</p> <p>20 reviewing the trade packs.</p> <p>21 Q Do you remember any of the answers</p> <p>22 they had to the questions that you may have</p> <p>23 asked?</p> <p>24 MR. BINDER: So I would instruct</p> <p>25 the witness, to the extent that</p>
<p style="text-align: right;">Page 251</p> <p>1 attorneys conveyed factual information,</p> <p>2 you can answer. But beyond that, I</p> <p>3 would instruct you not to answer.</p> <p>4 If you recall at all.</p> <p>5 A Mr. Oxford, at this moment in time,</p> <p>6 I don't recall exactly the answers to the</p> <p>7 questions.</p> <p>8 Q Okay. Do you recall, sitting here</p> <p>9 today, what, if any, factual information</p> <p>10 ED&F Man's lawyers conveyed to you on</p> <p>11 Topic 23?</p> <p>12 MR. BINDER: Objection, asked and</p> <p>13 answered.</p> <p>14 A I can't recall right now.</p> <p>15 Q Okay. Is it correct that</p> <p>16 ED&F Man's position is that Annex E</p> <p>17 contains -- withdrawn.</p> <p>18 Is it correct that ED&F Man's</p> <p>19 position is that the Annex E tax vouchers</p> <p>20 contain certain inaccuracies?</p> <p>21 A The Annex E tax vouchers contain</p> <p>22 inaccuracies.</p> <p>23 Q Can you describe those inaccuracies</p> <p>24 for me, please?</p> <p>25 A Are you able to be specific,</p>	<p style="text-align: right;">Page 252</p> <p>1 Mr. Oxford?</p> <p>2 Q It's just a general question.</p> <p>3 ED&F Man's position is that Annex E</p> <p>4 references tax vouchers that are inaccurate.</p> <p>5 I'm asking for your understanding,</p> <p>6 as a corporate representative on a notice</p> <p>7 topic here, whether you have any</p> <p>8 understanding of what those inaccuracies are?</p> <p>9 A The inaccuracies are that the tax</p> <p>10 vouchers in Annex E were incorrectly</p> <p>11 produced.</p> <p>12 Q Can you explain what you mean,</p> <p>13 "incorrectly produced?"</p> <p>14 A What I mean is that they should not</p> <p>15 have been produced.</p> <p>16 Q Why should they not have been</p> <p>17 produced?</p> <p>18 A Because they are inaccurate.</p> <p>19 Q In what sense are they inaccurate?</p> <p>20 A Could you repeat the question,</p> <p>21 please?</p> <p>22 Q In what sense are they inaccurate?</p> <p>23 A Because -- they were inaccurate</p> <p>24 because the pension plans weren't due a</p> <p>25 dividend from the company.</p>

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6 (Pages 253 to 256)

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1 Q Why were the pension plans not due
2 a dividend from the company?

3 A Because the shares which they
4 acquired were not entitled or not due a
5 dividend.

6 Q From whom did the pension plans
7 acquire the shares?

8 A The pension plans instructed the
9 finance desk to source the shares and the
10 ultimate counterparty in Annex E was
11 MPT Dubai.

12 Q And why were the shares that the
13 plans acquired not entitled or due a
14 dividend?

15 A Sorry, Mr. Oxford. Could you say
16 that again?

17 Q Yeah. Why were the shares that the
18 plans acquired not entitled or due a
19 dividend?

20 A Because on the trade date,
21 MPT Dubai did not have a contractual right to
22 the shares in which it sold.

23 Q Did MPT Dubai ever acquire the
24 contractual right to the Annex E shares it
25 sold to the plans?

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1 A Sorry. Could you ask the question
2 again?

3 Q Did MPT Dubai ever acquire the
4 contractual right to the Annex E shares it
5 sold to the plans?

6 A I'm not sure I understand the
7 complete question.

8 So would you mind saying it again?
9 Sorry.

10 Q Sure. Third time.

11 Did MPT Dubai ever acquire the
12 contractual right to the Annex E shares it
13 sold to the plan?

14 A The trades settled and so the
15 shares were delivered. But the shares that
16 were delivered, MPT did not have the right on
17 the trade date.

18 Q From whom did MPT Dubai -- if
19 anyone, from whom did they acquire the shares
20 to deliver to the pension plans?

21 MR. BINDER: Objection.

22 A It would have been through an IDB.

23 Q Was it through ED&F's IDB or an
24 external IDB?

25 MR. BINDER: Objection, compound.

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1 A I don't recall at this moment in
2 time.

3 Q We can agree that if the shares
4 were acquired through ED&F's IDB, then ED&F
5 would know from which counterparty the shares
6 were acquired?

7 MR. BINDER: Objection, vague,
8 ambiguous.

9 A I'm not sure, Mr. Oxford. I don't
10 know.

11 Q When did ED&F discover that the
12 vouchers were inaccurate?

13 A I think it was as part of the work
14 that the attorneys were doing.

15 Q Okay. My question was a timing
16 question, please. I ask you to listen to my
17 question.

18 When did ED&F discover that the
19 vouchers were inaccurate?

20 A Are you looking for a date?

21 Q Yes. Hence the question, "when."

22 MR. BINDER: Well, Mr. Oxford, he
23 did give you an answer to the "when."
24 It just wasn't in the form of a date.

25 A I don't know an exact date.

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1 Q What's the most exact date you can
2 give me?

3 A It's difficult for me to give a
4 date. I just know it's through the work,
5 when the attorneys were doing the work they
6 did.

7 Q Okay. Was it difficult for you to
8 give a date because you don't know the
9 answer?

10 A It's difficult for me to give an
11 exact date because I don't know when that is.

12 Q Did you learn anything about why
13 ED&F issued these inaccurate tax vouchers?

14 A So, in preparation for this topic,
15 it was something that I asked. The vouchers
16 were produced incorrectly because the person
17 producing them thought that it was -- it was
18 to be produced.

19 Q Why did he think that?

20 MR. BINDER: Objection, lacks
21 foundation.

22 A I don't know why he thought that.

23 Q Is that person Michael Meade?

24 A Yes, the person is Michael Meade.

25 Q To your knowledge, did ED&F take

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<p>1 any steps to confirm that the non-Annex E tax 2 vouchers did not contain similar 3 inaccuracies? 4 A I don't know. 5 Q Okay. Can you turn to Exhibits 6 473 and -- sorry, 4374 and 4375? They're in 7 your Binder 6. 8 MR. OXFORD: Mark 4374 and 4375. 9 (Whereupon the above mentioned was 10 marked for Identification.) 11 A Which tab is it? 12 Q Tabs 257 and 259. 13 A Okay. 257. 14 Q Great. Do you also have 259 there? 15 It should be -- 16 A Yeah. 17 Q It should be two tabs afterwards, 18 if my math is correct at this early hour. 19 So 4374 is the trade pack produced 20 by ED&F Man for Coloplast shares for the 21 Cambridge Way plan. 22 Correct? 23 A So I'm looking at Tab 257 first. 24 Q Yes, sir. 25 A I can see here this is a tax</p>	<p>1 voucher. It says Cambridge Way LLC 401(k) 2 Profit Share Plan and the security is 3 Coloplast. 4 Q Okay. And the amount is 2 million 5 shares. 6 Correct? 7 A A quantity of 2 million shares, 8 yes. 9 Q Okay. Great. 10 Then, flipping to your Tab 259, 11 which is Exhibit 4375, you'll see that's 12 another voucher for Coloplast. 13 Correct? 14 A (Witness reviewing.) 15 This tax voucher also relates to 16 Coloplast. 17 Q Okay. And it's 1.8 million shares. 18 Correct? 19 A Correct. 20 Q And this one is for the Acorn 21 Capital Strategies LLC Plan. 22 Correct? 23 A Yes, correct. 24 Q And the Acorn and Cambridge Way 25 plans were Zeta plans as we defined them</p>
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<p>1 yesterday. 2 Correct? 3 A I believe so. 4 MR. BINDER: I'm sorry. 5 Mr. Oxford, can you remind me what the 6 Zeta plans include? 7 MR. OXFORD: It's -- Acorn 8 Cambridge Way plus one other that is not 9 top of my mind for which Zeta was the 10 investment manager. 11 MR. BINDER: Thank you. 12 MR. OXFORD: You're welcome. 13 Q So, it's correct, is it not, sir, 14 that the Acorn and Cambridge Way plans 15 collectively claimed to own 3.8 million 16 shares of Coloplast in December 2013? 17 A So based on these two documents, 18 Cambridge Way, it says here, confirms 19 2 million, and Acorn, it says here, 20 1.8 million, as we said. 21 So 2 million plus 1.8 million is 22 3.8 million, if my math is correct. 23 Q I think so. I became a lawyer so I 24 didn't have to do math, but I'm with you so 25 far. I think we're on the same page.</p>	<p>1 And so, is it correct that ED&F 2 acquired those shares over several 3 transactions just before the dividend 4 declaration date? 5 A I would have to go through the 6 trade packs. 7 Q Okay. I'll walk you through some 8 documents shortly. 9 But let me represent to you what I 10 think the documents show is that 2.8 million 11 shares were acquired from Mitsubishi, 500,000 12 shares were from -- 13 MR. OXFORD: I will spell this for 14 you, Mike. 15 Q -- Lutetia Patrimoine, 16 L-U-T-E-T-I-A, P-A-T-R-I-M-O-I-N-E, and 17 another 500,000 shares from Volcafe. 18 MR. BINDER: So Mr. Oxford, if you 19 want him to understand where the shares 20 are from, you're going to have to let 21 him go through the document, rather than 22 represent to him what you interpret the 23 documents to say. 24 MR. OXFORD: I'm just letting -- 25 there's no question pending. So Neil,</p>

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<p>1 if you have an objection when there's a 2 question, you can put it on the record. 3 Otherwise, it's my deposition. I'd ask 4 you to keep quiet. 5 MR. BINDER: That's fine. But 6 I'm -- we're not accepting the 7 representation. 8 MR. OXFORD: I don't expect you to. 9 Q So, before the interruption, I 10 think I was talking about 500,000 shares from 11 Volcafe. 12 Sir, do you know whether any of the 13 shares that are on these vouchers were 14 contained on the Annex E list of inaccurate 15 vouchers? 16 A Mr. Oxford, say again? So there 17 was 2.8 million that you think is wrong. 18 Q Mitsubishi, 500,000 from Lutetia 19 Patrimoine and 500,000 from Volcafe? 20 MR. BINDER: Objection. 21 Q So my question is -- 22 A Your question is? 23 Q Do you know if any of those 24 3.8 million are in Annex E? 25 A I would have to look into these</p>	<p>1 trade packs to see. I can't answer based on 2 that. 3 Q Okay. Can I ask you to turn -- so 4 keeping it in Binder 6, can I ask you to turn 5 to Tabs 260 and 261? 6 MR. OXFORD: Neil, this is Exhibits 7 4376 and 4377. 8 (Whereupon the above mentioned was 9 marked for Identification.) 10 A I have 260 in this binder, but 11 there doesn't appear to be a 261. 12 Q Oh, I'm sorry. That's in Binder 7. 13 A Bear with me one second because the 14 Binder 7 is also broken. 15 Q Are you there, sir? 16 A One second. The binder for 17 Volume 7 is also broken and the hole punches 18 aren't 100 percent done. But if you bear 19 with me, maybe that -- okay. 20 I have Tab 260 of Volume 6 and 261 21 of Volume 7 in front of me. 22 Q Great. Great. Thank you. 23 So starting with your Tab 260 which 24 is Exhibit 4376, you see the front page, 25 which is Bates 637, there's an e-mail from</p>
Page 263	Page 264
<p>1 Piers Canute of Zeta to the equity finance 2 desk of ED&F? 3 A On the 5th of December, Piers 4 Canute, Zeta -- yes, I see that. 5 Q Okay. And he's placing an order 6 for 1.8 million shares of Coloplast. 7 Correct? 8 A Bear with me one second. 9 (Witness reviewing.) 10 I can see this is an instruction to 11 purchase Coloplast. 12 Q Via ED&F Man. 13 Correct? 14 A It says here, "Please can you 15 execute on our behalf with ED&F," is what the 16 document says. 17 Q Do you know whether the reference 18 "T plus 4" makes it a cum ex trade? 19 MR. BINDER: Objection to form, 20 lacks foundation. 21 A I do not know. 22 Q If the -- can we agree that if the 23 shares were to settle after the record date, 24 the plans would not have received a dividend 25 directly from the issuer?</p>	<p>1 A Mr. Oxford, sorry. 2 Could you repeat one more time? 3 Q Sure. 4 Can we agree that if the trades 5 settle after the record date, they 6 wouldn't -- the plans would not have received 7 a dividend directly from the issuer? 8 A If the trade settled after the 9 record date, the pension plans would not have 10 received the dividend directly from the 11 issuer, correct. 12 Q ED&F would have had to make a claim 13 to the provider of the shares for the 14 equivalent cash amount to the dividend. 15 Correct? 16 MR. BINDER: Objection to form, 17 mischaracterizes the evidence. 18 A Mr. Oxford, could you ask me the 19 question again? 20 Q Sure. 21 ED&F would have had to make a claim 22 to the provider of the shares for the 23 equivalent amount in cash of the dividend? 24 MR. BINDER: Objection to form, 25 mischaracterizes the evidence.</p>

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9 (Pages 265 to 268)

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1 A I have seen cases in which there
2 are market recourse to the counterparty whose
3 name was on the record date, was on the
4 record on record date, claiming that
5 equivalent dividend.

6 Q Is that sometimes also known as a
7 "market claim?"

8 A I'm not sure.

9 Q Do you know why any of the pension
10 plan trades through ED&F were structured to
11 settle after the record date?

12 MR. BINDER: Objection to form,
13 lacks foundation.

14 A I do not know.

15 Q Okay. So turning to your
16 Binder 7261, do you see there's a similar
17 document -- this is Exhibit 4377 -- a similar
18 document from Zeta on behalf of the Cambridge
19 Way plan requesting a purchase of 1 million
20 shares of Coloplast on the same terms as the
21 exhibit that we just looked at?

22 A (Witness reviewing.)

23 Okay. So I can see that this is an
24 e-mail from Piers Canute at Zeta to the
25 finance desk. It's an instruction, Cambridge

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1 Way LLC 401(k) Profit Sharing Plan, and the
2 instructions for 1 million shares of COLOB DC
3 at T plus 4. And it says, "Please can you
4 execute on behalf with ED&F" is what the
5 document says.

6 Q Great. And can you then turn to,
7 keeping in Binder 7262?

8 MR. OXFORD: Neil, it's
9 Exhibit 4378.

10 (Whereupon the above mentioned was
11 marked for Identification.)

12 A Okay. I have 2 -- Tab 262.

13 Q Great. And that's Bates number
14 ending 228?

15 A Bates number ending 228, yeah.

16 Q Okay. And this is a trade confirm
17 for the equity finance desk of ED&F to buy
18 2.8 million shares of Coloplast on the same
19 trade date, settlement date, and same price
20 as the two preceding exhibits.

21 Correct?

22 A This is a Bloomberg confirmation
23 from --

24 THE WITNESS: Sorry, Mike.

25 A This is a Bloomberg confirmation

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1 from Paul Scofield to Rizwan Ali of
2 Mitsubishi USA Securities, and the
3 confirmation confirms Mitsubishi sells
4 2.8 million of Colo, trade date, 5th of
5 December, value date, 11th of December.

6 Q And do you have any reason to doubt
7 that these are the 2.8 million shares that
8 ED&F acquired for the Cambridge Way and
9 Acorn plans?

10 A I couldn't tell for certain.

11 Q All right. But no reason to doubt?

12 A The document says what the document
13 says, Mr. Oxford. I can only tell you what
14 the document says.

15 Q Okay. It's an ED&F document.
16 Correct?

17 MR. BINDER: Objection.

18 A This is a Bloomberg confirmation
19 from Paul Scofield of the IDB desk.

20 Q Paul Scofield is at the IDB desk,
21 or the finance desk?

22 A Paul Scofield works for the IDB
23 desk.

24 Q Thanks. Okay.

25 And then, turning to Binder 6,

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1 Tab 257 for you, it's Exhibit 437 --
2 actually, hold on. Sorry.

3 Binder 7, Tab 265 is Exhibit 4381.

4 (Whereupon the above mentioned was
5 marked for Identification.)

6 A Binder 7, Tab --

7 Q 265.

8 A Okay. Yes, 265.

9 Q Okay. And you see on Page 2, which
10 ends in Bates 701, can you confirm this is a
11 market claim made by Mr. Meade of ED&F Man
12 relating to shares of Coloplast?

13 A (Witness reviewing.)

14 I can see an e-mail from 11
15 December 2013 from Michael Meade to -- the
16 e-mail is addressed to Lucy Doyle, David
17 Tillings. It says "OPS Equity Asset
18 Servicing."

19 From the signature above, which is
20 from another e-mail, it appears that Dave
21 Tillings works at Mitsubishi USA, and Michael
22 Meade's e-mail, the document says, "We are
23 claiming the below dividend" --

24 THE WITNESS: I'm reading out of
25 the e-mail, Mike.

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10 (Pages 269 to 272)

<p style="text-align: right;">Page 269</p> <p>1 A "We are claiming the below dividend 2 due to cum dividend trades settling after the 3 dividend record date. Please see details 4 below." And then it lists Coloplast, the 5 ISIN, the record date, the pay date, the DIV 6 rate, the currency. 7 Q And the market claim is made to 8 Mitsubishi. 9 Correct? 10 A This e-mail is sent to Mitsubishi. 11 Q For the same Coloplast dividend 12 that is on the two tax vouchers for 13 Cambridge Way and Acorn that we looked at at 14 the start of this line of questioning? 15 A Can I just double-check the dates 16 on the tax voucher again, please? 17 Q Sure. 18 A Which tab was it, Mr. Oxford? 19 Q It was -- I've gotten into a bit of 20 a habit of once we're finished with the 21 document, I screw up this helpful little 22 piece of paper someone gives me to tell me 23 which exhibit it is. So going backwards is 24 difficult for me. Hold on one second. 25 A Sorry.</p>	<p style="text-align: right;">Page 270</p> <p>1 Q Binder 6, 261, and Binder 7, 262. 2 MR. BINDER: This is 4374 and 4375? 3 MR. OXFORD: Correct. 4 A 261 is the tax voucher. 5 Q Yeah. So you should be in 6 Binder 6, 260, and Binder 7, 261. 7 A Yes. Sorry, Mr. Oxford. I asked 8 which tab was the one that the tax voucher 9 was on. 10 260 doesn't have the tax voucher. 11 Q Okay. Let's start with just 261. 12 Is 261 the trade pack? 13 A 261, which is in Volume 7, is an 14 e-mail from Piers Canute to the equity 15 finance desk. 16 Q Hold on. I've clearly misdirected 17 you. Give me one second. 18 A Sure. 19 Q So Binder 6, 257 and 259. 20 A Okay. Thank you. 21 Q My apologies. It's a trouble when 22 your binder does not line up with my binder. 23 MR. BINDER: Okay. And just to 24 complete it, the 257 corresponds to what 25 exhibit? And 259 corresponds to what</p>
<p style="text-align: right;">Page 271</p> <p>1 exhibit? 2 MR. OXFORD: 257 corresponds to 3 Exhibit 4374, and 259 corresponds to 4 Exhibit 4375. 5 A Your final question to me 6 was -- can you repeat that question? 7 Q It's the market claim that we were 8 looking at. 9 Is that the same Coloplast dividend 10 that's on the two tax vouchers that appear, 11 and the tax that you're looking at now, 12 Exhibits 4374 and 4375? 13 A Okay. So the security name in this 14 e-mail is the same as the tax voucher. The 15 ISIN is the same on the tax voucher. 16 In the e-mail, it says "Record 17 Date, 10th of November 2013." On the tax 18 voucher, I can see it says the record date is 19 10th of December 2013. In the e-mail it says 20 "Pay Date, 11th December 2013." 21 I can see in the tax voucher the 22 pay date says 11th of December 2013. The 23 gross DIV rate in the e-mail is the same as 24 the tax voucher, is 7, the currency is DKK, 25 the same as the tax voucher, and the tax rate</p>	<p style="text-align: right;">Page 272</p> <p>1 is 27 percent, which is the same as the tax 2 voucher. 3 Q Okay. So my question is: Do you 4 believe that the market claim relates to 5 those two tax vouchers? 6 A I don't know, Mr. Oxford. 7 Q Okay. Can you turn, please to 8 Exhibit 4382? 9 (Whereupon the above mentioned was 10 marked for Identification.) 11 Q It's in your Binder 7 at Tab 266. 12 266. Are you there? 13 A Yes. I have Tab 266 in front of 14 me. 15 Q Great. And can you turn to the 16 third page, which should end Bates 63? 17 MR. BINDER: Mr. Oxford, that's 18 exhibit what? 19 MR. OXFORD: 4382. 20 A The third page with a reference 21 number -- what was it, Mr. Oxford? 22 Q Ending 623. 23 A The third page for me ends 622. 24 Q Okay. Then can you turn it another 25 page?</p>

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11 (Pages 273 to 276)

Page 273	Page 274
<p>1 A Yeah, of course. Bear with me. 2 Okay. 3 I have here the page that 4 ends -- reference ends in 623. 5 Q Terrific. Okay. 6 Do you see there's an e-mail from 7 Piers Canute to the ED&F equity finance desk 8 requesting, on behalf of the Cambridge Way 9 plan, the purchase of 500,000 more shares of 10 Coloplast on the same terms as the previous 11 requests we just looked at? 12 A Okay. So yes, I can see the 13 e-mails from Piers Canute on the 5th of 14 December to the finance desk, and the 15 instruction is on behalf of Cambridge Way LLC 16 401(k) Plan, and it's to buy 500,000 shares 17 of COLOB DC at T plus 4. 18 "Please can you execute on our 19 behalf with Paul Scofield at ED&F" is what 20 the document says. 21 Q Okay. And can you turn please to 22 Exhibit 4380 -- excuse me, 4383, which is in 23 your Binder 7, Tab 267. 24 (Whereupon the above mentioned was 25 marked for Identification.)</p>	<p>1 A Yeah, I have in front of me 2 Tab 267. 3 Q Okay. And do you see this is a 4 Bloomberg exchange between a Mr. Brunet, 5 B-R-U-N-E-T, and Paul Regan, R-E-G-A-N, at 6 ED&F? 7 MR. BINDER: Objection, form. 8 A I can see that this Bloomberg 9 message is sent from Paul Regan to Bruce 10 Brunet. 11 Q And Mr. Brunet is offering, on 12 behalf of Lutetia, to sell 500,000 shares of 13 Coloplast. 14 Correct? 15 A (Witness reviewing.) 16 So can you ask me your question 17 again? 18 MR. OXFORD: Can you read it back, 19 Mike, please? 20 (Whereupon the record was read back 21 by the reporter.) 22 A I can see one of the messages here 23 is from Mr. Brunet and it says, "Hello," an 24 asterisk, "Buy COLOB DC," and his message 25 says, "I am a buyer of the following 500,000</p>
Page 275	Page 276
<p>1 COLOB DC at DKK 353. Any interest?" 2 Q Okay. So any reason to doubt that 3 this is the source of the 500,000 shares that 4 Mr. Canute of Zeta was seeking on behalf of 5 the Cambridge Way plan? 6 A Sorry. Repeat that one more time, 7 please, Mr. Oxford? 8 Q Do you have any reason to doubt 9 that this trade confirm is the source of the 10 500,000 shares that Mr. Canute of Zeta was 11 seeking on behalf of the Cambridge Way plan? 12 MR. BINDER: Objection to form, 13 misstates the document. 14 A (Witness reviewing.) 15 I'm not sure. I can only see what 16 the document says. 17 Q Okay. Can I ask you to turn to 18 your Binder 2, Tab 275. 19 A Binder 2, you said? 20 Q Let me just check. It's Tab 275. 21 A Okay. I think it's in the same 22 binder. 23 Q Oh, yeah. I'm sorry. Binder 7. 24 My bad. 25 MR. BINDER: Exhibit number?</p>	<p>1 MR. OXFORD: 4391. 2 (Whereupon the above mentioned was 3 marked for Identification.) 4 A I have Tab 275 open. 5 Q Okay. Great. And you see this is 6 a pleading on behalf of ED&F Man. It's the 7 re-amended defense in England. 8 Correct? 9 A I can see it says "re-amended 10 defense." 11 Q Great. 12 And then, if you could turn to the 13 back of the document to find Annex E that you 14 testified about earlier? 15 A Sorry. Where am I going to? 16 Q Go to the back of the document, and 17 then go in ten pages. 18 A Okay. 19 Q Okay. Do you have Annex E, 20 Schedule 1 in front of you? 21 A Annoyingly, these don't have 22 reference dates at the bottom. I went ten 23 pages in, and the top says "Annex E, 24 Incorrect Tax Vouchers," and in brackets, 25 "Number 2."</p>

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12 (Pages 277 to 280)

<p style="text-align: right;">Page 277</p> <p>1 Q Okay. Could you go a couple pages 2 back and find something that's headed 3 "Annex E, Schedule 1, Incorrect Tax 4 Vouchers?"</p> <p>5 A Okay. I see -- I went back and I 6 see "Annex A, Incorrect Tax Vouchers." 7 That's not what you're referring to. Let's 8 see, Annex B --</p> <p>9 Q It's after B.</p> <p>10 A Okay. Maybe it was the page after. 11 So I see a spreadsheet here, a 12 table -- sorry -- and the title of this page, 13 it says number "1" at the bottom, is 14 "Annex E, Schedule 1, Incorrect Tax 15 Vouchers."</p> <p>16 Is that the document that you're 17 referring to?</p> <p>18 Q Bingo. I knew we would get there 19 eventually. Okay.</p> <p>20 So looking at the first item there, 21 there's an entry for 500,000 shares of 22 Coloplast.</p> <p>23 Do you know what? After all of 24 that, I actually sent you to the wrong page. 25 Could you go back to Schedule 2?</p>	<p style="text-align: right;">Page 278</p> <p>1 My apologies. So if you just flip forwards 2 in the document a couple pages, you'll get to 3 Schedule 2.</p> <p>4 I'm terribly sorry.</p> <p>5 A I'm skipping forward in the 6 document.</p> <p>7 Q Well, towards the back of the 8 document, Schedule 2 follows Schedule 1.</p> <p>9 A So that's fine. Yeah. So I have a 10 table here. The bottom of the page has the 11 number "1," Page 1, and it's titled "Annex E, 12 Schedule 2, Incorrect Tax Vouchers."</p> <p>13 Q Great.</p> <p>14 And the first entry is for 15 Cambridge Way.</p> <p>16 Correct?</p> <p>17 A (Witness reviewing.)</p> <p>18 Yes. So at the top, beneath the 19 titles, Row Number 1 is for -- it's Schedule 20 1 reference is 527 and it says that the 21 pension plan is Cambridge Way LLC 401(k) 22 Profit Sharing Plan.</p> <p>23 Q Okay. And that relates to share 24 holdings in Coloplast. 25 Correct?</p>
<p style="text-align: right;">Page 279</p> <p>1 A I can see that the document 2 in -- says in Column D, which is titled 3 "Shareholding," it says there, "2 million 4 Coloplast AS-B."</p> <p>5 Q So the answer to my question is 6 "yes?"</p> <p>7 A Reading here what the document 8 says, yes.</p> <p>9 Q Okay. And is it correct that 10 this -- the tax voucher for Cambridge Way 11 ED&F concedes was incorrect because instead 12 of having a share holding of 2 million which 13 it represented, ED&F now says the share 14 holding should have only been 1.5 million.</p> <p>15 Correct?</p> <p>16 MR. BINDER: Objection to form.</p> <p>17 A So could you ask the question 18 again?</p> <p>19 MR. OXFORD: Can you read it back, 20 Mike?</p> <p>21 (Whereupon the record was read back 22 by the reporter.)</p> <p>23 A I don't know.</p> <p>24 Q Okay. Can I ask you to turn, 25 please, to Exhibit 4385?</p>	<p style="text-align: right;">Page 280</p> <p>1 (Whereupon the above mentioned was 2 marked for Identification.)</p> <p>3 Q Which is tab -- your Binder 7, 269.</p> <p>4 A Okay. I have Tab 269 in front of 5 me.</p> <p>6 Q Okay. Is this a trade 7 confirmation, starting at the Bates number 8 ending 662, between Volcafe and ED&F Man 9 Professional Dubai or MPT?</p> <p>10 A I can see this is a -- an e-mail 11 from Mr. Goodwin. It's a confirmation and 12 the confirmation is to -- it says here, 13 "ED&F MCN on behalf of ED&F Man Professional 14 Dubai."</p> <p>15 THE WITNESS: Sorry, Mike.</p> <p>16 Q And this is for a million shares of 17 Coloplast on the same trade date and value 18 date and at the same price that the plans 19 were purchasing the shares.</p> <p>20 Correct?</p> <p>21 A This is for one million shares, a 22 trade date, 5th of December, value date, 11th 23 of December.</p> <p>24 Q And the price is 352.8, correct, 25 Danish kroner?</p>

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13 (Pages 281 to 284)

<p style="text-align: right;">Page 281</p> <p>1 A The price is 352 spot 8 DKK, as it 2 says on the document. 3 Q Okay. Can you turn, please, to 4 Exhibit 4384, which is Tab 268 of your 5 Binder 7? 6 (Whereupon the above mentioned was 7 marked for Identification.) 8 A Okay, I'm on Tab 268. 9 Q Okay. I think we looked at this 10 before. 11 This is a request from Mr. Canute 12 for Cambridge Way, order two. He's seeking 13 from ED&F, from Cambridge Way, 500,000 shares 14 of Coloplast, T plus 4, and the price is 15 352.8. 16 Do you see that? 17 A I can see that this e-mail is from 18 Piers Canute. It's the instruction that I 19 believe we saw before for Cambridge Way LLC 20 plan, and the instruction is to buy 500,000 21 shares of COLOB DC -- 22 Q Got it. 23 A Sorry. Go ahead. 24 Q And the confirm is attached. He 25 says that.</p>	<p style="text-align: right;">Page 282</p> <p>1 Right? 2 A The e-mail from Sara Mina says, 3 "Hi, Piers, confirms attached." 4 Q And if you turn the page, she does, 5 in fact, attach a confirm. 6 Correct? 7 A Okay. So I turned the page. 8 This is an e-mail from Rich 9 Goodwin, Volcafe, cash equity confirmation. 10 This is a confirmation e-mail. 11 Q And the confirmation is that the 12 Cambridge Way plan, through ED&F, is buying 13 500,000 shares of Coloplast from Volcafe. 14 Correct? 15 A So the trade date, 5th of December, 16 value date, 11th of December -- yes, 500,000 17 shares of Coloplast is the security, and it's 18 ED&F MCM on behalf of Cambridge Way plan. 19 Q Okay. So what's happening here, is 20 it not, sir, that ED&F Dubai sells shares to 21 Volcafe, and Volcafe sells the shares to 22 Cambridge Way? 23 A Sorry. Sorry. 24 Can you say that again? 25 Q Sure.</p>
<p style="text-align: right;">Page 283</p> <p>1 What is happening here is ED&F Man 2 Dubai, MPT Dubai sells shares of Coloplast to 3 Volcafe, and Volcafe sells them via ED&F Man 4 in London to the Cambridge Way plan. 5 Correct? 6 MR. BINDER: Objection to form, 7 vague. 8 A This confirmation e-mail is from 9 Volcafe to ED&F MCM, who is purchasing, on 10 behalf of Cambridge Way LLC, 500,000 shares 11 of Coloplast. 12 Q Do you know how MPT Dubai 13 determined it was going to sell a million 14 shares of Coloplast to Volcafe? 15 MR. BINDER: Objection to form, 16 lacks foundation. 17 A I don't know. 18 Q Okay. Can I ask you to turn, 19 please, to Exhibit 4400? 20 (Whereupon the above mentioned was 21 marked for Identification.) 22 Q Tab 285 in your Binder 7. 23 A Yeah. Okay. 24 Q Okay. So you have -- the first 25 page should end in Bates 500?</p>	<p style="text-align: right;">Page 284</p> <p>1 A Yeah, the first page ends in 500. 2 Q Okay. That's a request for trade 3 from Mr. Canute of Zeta to the equity finance 4 desk in London. 5 Correct? 6 A So this is an e-mail from Piers 7 Canute on the 6th of December to the equity 8 finance desk. The e-mail says, "Please can 9 you approve the following trades: Cambridge 10 Way LLC 401(k) Profit Sharing Plan would like 11 to sell 500,000 shares of COLO DC at DKK 3.7 12 spot 5, T plus 3. Please can you execute on 13 our behalf with Paul Scofield at ED&F." 14 Q Yeah. So the Cambridge Way plan is 15 selling back to ED&F the 500,000 shares of 16 Coloplast it just purchased. 17 Correct? 18 A This is an instruction to sell 19 500,000 shares of COLO DC. 20 Q Okay. And the settlement date 21 is -- well, actually if you -- can you turn 22 the page to look at the trade confirm? 23 A I have turned the page, and I can 24 see a trade on the front. 25 Q And the settlement date of that</p>

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14 (Pages 285 to 288)

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1 trade is December 11th.
 2 Correct?
 3 A The e-mail here says, "Trade date,
 4 6th of December, value date, 11th of
 5 December."
 6 Q And that's the same date as the
 7 purchases had settled.
 8 Correct?
 9 A Excuse me?
 10 Q It's the same date as the purchase
 11 that we just looked at, the Cambridge Way
 12 purchase of 500,000.
 13 The purchase settled the same day
 14 as the sale settled?
 15 A The document says, "Trade date, 6th
 16 of December, value date, 11th of December."
 17 Q Okay. Can you turn please to
 18 Exhibit 4401?
 19 (Whereupon the above mentioned was
 20 marked for identification.)
 21 Q Which is 286 in your Binder 7.
 22 A I have Tab 286 in front of me.
 23 Q Okay. Bates number ending 911?
 24 A Bates number ending 911.
 25 Q And this trade confirm reflects a

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1 sale by ED&F Man in London to ED&F Dubai or
 2 MPT of the same 500,000 shares of Coloplast,
 3 same trade date, same settlement date, and
 4 same price as we just looked at.
 5 Correct?
 6 MR. BINDER: Objection to form.
 7 A So this is a Bloomberg
 8 correspondence. The original message in this
 9 Bloomberg correspondence is from Paul Regan
 10 on the 6th of December, 2013.
 11 And it says, "To confirm, ED&F
 12 Dubai buy the following: 500,000 COLOB DC,
 13 trade date, 6th of December, value date, 11th
 14 of December.
 15 Q Okay. So what is happening here,
 16 sir, is that the Cambridge Way plan is
 17 selling back, via Volcafe, the same shares
 18 that it just purchased via Volcafe to
 19 MPT Dubai.
 20 Correct?
 21 MR. BINDER: Objection to form.
 22 A Sorry. Could you ask the question
 23 again, please?
 24 MR. OXFORD: Mike, can you read it
 25 back, please?

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1 (Whereupon the record was read back
 2 by the reporter.)
 3 A I can see in this document that you
 4 referred to, this confirmation confirms that
 5 ED&F Dubai buy 500,000 COLOB DC.
 6 Q And they're buying up, via Volcafe,
 7 from the Cambridge Way plan.
 8 Correct?
 9 A (Witness reviewing.)
 10 The Bloomberg message comes from
 11 Paul Regan.
 12 Q Okay. So they're buying via the
 13 IDB?
 14 A I believe Paul Regan worked for the
 15 IDB desk.
 16 Q So MPT Dubai is buying back from
 17 the Cambridge Way plan the same 500,000
 18 shares of Coloplast that it just purchased
 19 from them.
 20 Correct?
 21 A This confirm is from Paul Regan and
 22 it says, "To confirm, ED&F Dubai buy 500,000
 23 COLOB."
 24 Q Which the plan had just sold to the
 25 IDB, and then the IDB is selling back to

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1 MPT Dubai.
 2 Correct?
 3 MR. BINDER: Objection to form.
 4 A Mr. Oxford, I can only tell you
 5 what this document that you pointed me to
 6 says.
 7 Q Sure. But I pointed you to a
 8 series of documents. I'm asking if you can
 9 draw any conclusions from the series of
 10 documents.
 11 MR. BINDER: Objection.
 12 Q If the answer is you can't, that's
 13 the answer.
 14 MR. BINDER: Sorry. Is there
 15 a -- what is the question that's
 16 pending?
 17 Q Are you able to draw any
 18 conclusions from this series of documents
 19 that I have just showed you?
 20 MR. BINDER: Objection, vague.
 21 A (Witness reviewing.)
 22 Mr. Oxford, I can't tell you
 23 anything further.
 24 MR. BINDER: We've been going over
 25 an hour and 15. How about a break?

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15 (Pages 289 to 292)

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1 MR. OXFORD: Yeah. Could I just
2 finish this line, Neil? I will just be
3 one minute.
4 Q Can you agree with me, Mr. Hashemi,
5 that what's happening here is the shares are
6 moving in a loop?
7 ED&F, MPT, and Dubai sells 500,000
8 shares of Coloplast via an intermediary,
9 which is an ED&F affiliate to the Cambridge
10 Way plan, and then the same shares are sold
11 back to MPT Dubai on the same settlement
12 date?
13 MR. BINDER: Objection to form.
14 A So could you ask the question
15 again, please?
16 MR. OXFORD: Mike, can you read it
17 back?
18 (Whereupon the record was read back
19 by the reporter.)
20 A I can see through these
21 confirmations that the securities are being
22 sold -- bought and sold through IDBs.
23 Q Beyond that, you can't answer my
24 question?
25 A I don't know.

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1 MR. OXFORD: Let's go off.
2 THE VIDEOGRAPHER: Stand by. The
3 time is 8:17 a.m. New York time and
4 we're going off the record.
5 (Brief recess taken.)
6 THE VIDEOGRAPHER: Stand by. The
7 time is 8:40 a.m. New York time and
8 we're back on record.
9 Q Mr. Hashemi, earlier this morning
10 we were talking about Annex E and whether
11 MPT Dubai ever acquired the rights to the
12 shares that it purported to sell to the plans
13 for the Annex E trades.
14 Do you remember those? Do you
15 remember those questions?
16 A I recall the conversation.
17 Q Okay. Do you know whether
18 MPT Dubai ever acquired rights to the Annex E
19 shares that it purported to sell to the
20 defendant plans?
21 MR. BINDER: Asked and answered.
22 A So as I -- as I would have said
23 before, MPT Dubai did not hold the rights to
24 the shares which they sold on trade date in
25 the Annex E subset of trades.

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1 Q Okay. Did MPT Dubai, at any point,
2 hold the rights to the shares which they sold
3 on the Annex E subset of trades?
4 A Mr. Oxford, as I would have said
5 before, the trades settled, so the shares
6 would be delivered to the pension plans.
7 So these would not be shares that
8 MPT Dubai had a contractual right to on the
9 trade date.
10 Q Do you have any information about
11 where those shares you say settled came from?
12 A I don't at this moment in time.
13 Q Can I ask you to turn to
14 Exhibit 4382, which is Tab 266 in your
15 Binder 7?
16 A Okay. I have Tab 266.
17 Q Okay. So the first document ends
18 in Bates 620.
19 Are you there?
20 A Yeah, the first document ends in
21 620.
22 Q Great.
23 Can you flip over to the one ending
24 in 622, please?
25 A Okay. I have the one ending 622.

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1 Q Great.
2 So at the top of the page, this is
3 an e-mail exchange between Mr. Bottomley and
4 Mr. Howard of ED&F.
5 Correct?
6 A At the top of the e-mail, it says
7 the e-mail is from Oliver Bottomley to Marcus
8 Howard.
9 Q And the subject is "COLOB," which
10 is short for Coloplast.
11 Correct?
12 A The subject says, "Forward
13 COLOB DC-CW Order."
14 Q Do you understand "COLOB" to be a
15 reference to Coloplast?
16 A Looking at the rest of the e-mail,
17 "COLOB DC" would refer to the Coloplast
18 shares.
19 Q Okay. And given the relationship
20 between Zeta and the Cambridge Way plan, do
21 you also understand this to be a trade that
22 Mr. Canute, on behalf of Zeta, is trying to
23 place for the Cambridge Way plan?
24 A So the original message in this
25 forwarded message is from Piers Canute to the

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16 (Pages 293 to 296)

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1 MPT finance desk. It says, "Please can you
2 approve the following trades?"

3 And then it says that "the
4 Cambridge Way LLC 401(k) Plan would like to
5 buy 500,000 shares of COLOB DC at DKK 348
6 spot 9, T plus 3."

7 It then says, "Please can you
8 execute on our behalf with Marex, sell
9 500,000 shares of COLOB DC at DKK 348 spot 9,
10 T plus 3? Please can you execute on our
11 behalf with Marex?"

12 Q Is it correct that Mr. Canute, on
13 behalf of the Cambridge Way plan, is seeking
14 to have ED&F execute an order to buy and sell
15 the same shares on the same day at the same
16 price with the same settlement date?

17 A So the e-mail has an instruction,
18 "Buy" --

19 MR. BINDER: Objection, form.

20 THE WITNESS: Thank you for
21 mentioning that, Mike, because I didn't
22 hear Mr. Binder say anything.

23 Q Is it important that you hear his
24 objection to form?

25 A It is important that I hear

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1 everyone on this call.

2 MR. BINDER: That's not a real
3 question. Please go ahead.

4 A So, to answer your question,
5 Mr. Oxford, I can see that the e-mail
6 says -- it's an instruction to buy 500,000
7 shares of COLOB at 348 spot 9, T plus 3.

8 And then, the next sentence says,
9 to instruct -- "execute on our behalf, sell
10 to Marex, sell 500,000 shares of COLOB DC at
11 348 spot 9, T plus 3."

12 Q Okay. So are you able to answer my
13 question, sir? Let me give it to you again
14 to see whether we can do it the second time
15 around.

16 Is it correct that Mr. Canute, on
17 behalf of the Cambridge Way plan, is seeking
18 to have ED&F execute an order to buy and sell
19 the same shares on the same day at the same
20 price with the same settlement date?

21 MR. BINDER: Objection to form,
22 compound, lacks foundation.

23 A So the e-mail from Piers Canute to
24 the equity finance desk on behalf of
25 Cambridge Way Profit-Sharing Plan has an

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1 instruction to buy 500,000 shares of COLOB DC
2 at 348 spot 9, T plus 3.

3 THE WITNESS: I'm sorry, Mike.

4 A So the instruction in this e-mail,
5 it has an instruction of -- to buy 500 shares
6 of COLOB DC at 348 spot 9, T plus 3.

7 And then, the following sentence is
8 an instruction to sell 500 shares of COLOB DC
9 at 348 spot 9, T plus 3.

10 Q Are you finished with your answer?

11 A I've finished with my answer.

12 Q Okay. So I'm going to ask it
13 again.

14 Is it correct that Mr. Canute, on
15 behalf of the Cambridge Way plan, is seeking
16 to have ED&F execute an order to buy and sell
17 the same shares, on the same day, at the same
18 price, with the same settlement date?

19 MR. BINDER: Objection to form,
20 lacks foundation.

21 A So Mr. Canute sent an e-mail
22 instructing the equity finance desk to
23 execute the buy of 500,000 shares of COLOB DC
24 at 348 spot 9, T plus 3. In the same e-mail
25 the following sentence, there's also an

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1 instruction to sell the 500,000 shares of
2 COLOB DC at 348 spot 9, T plus 3.

3 Q So is the answer to my question
4 "yes?"

5 MR. BINDER: Objection, asked and
6 answered, vague.

7 A I'm reading to you what the
8 document says.

9 Q Right, sir. And I think that's
10 -- exactly. I'm glad you said that because
11 that's exactly the nub of the problem.
12 You're reading the document. I'm not asking
13 you to read the document.

14 I'm asking, as ED&F's 30(b)(6)
15 witness, whether this document is instructing
16 ED&F Man, on behalf of the Cambridge Way
17 plan, to execute a trade to buy and sell the
18 same shares on the same day, at the same
19 price, with the same settlement date?

20 MR. BINDER: Objection to form,
21 calls for speculation. The document
22 speaks for itself.

23 MR. OXFORD: It doesn't call for
24 speculation. It calls for a knowledge
25 of the English language and ED&F Man's

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17 (Pages 297 to 300)

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<p>1 business. He's a 30(b)(6) witness. 2 It's ridiculous he can't answer this 3 question. 4 MR. BINDER: You're showing him a 5 document. It says what it says. And 6 now you're asking him to say more than 7 what it says. 8 MR. OXFORD: Yes. He's a witness. 9 He's to testify. His job here is not to 10 read documents, Mr. Binder, as I think 11 you know. He's a 30(b)(6) witness. 12 He's absolutely and adequately prepared, 13 and this is becoming a very difficult 14 examination if all the witness is going 15 to do is read documents and not actually 16 answer my question. 17 Q Let me -- just so we have it a 18 fourth time, I'm going to ask you one more 19 time and then I guess we've got a very good 20 record here. 21 MR. BINDER: And I'm going to 22 object. I'm going to object because I 23 don't think the substance of this e-mail 24 even falls within any of the subject 25 matters of this 30(b)(6) deposition.</p>	<p>1 Q Okay. So I'm going to "give it one 2 more good old college try," as we say in the 3 United States, sir. 4 After reading this e-mail to me 5 four times, can we agree that what 6 Mr. Canute, on behalf of the Cambridge Way 7 plan, is asking ED&F Man to do is to execute 8 a buy and a sell of the same shares, on the 9 same day, at the same price, with the same 10 settlement date? 11 MR. BINDER: Objection, asked and 12 answered. 13 MR. OXFORD: It's asked, certainly. 14 Not answered. 15 A So what I can see from the document 16 that you referred me to is that Mr. Canute 17 has sent an instruction to the equity finance 18 desk to buy 500 -- or execute the transaction 19 to buy 500,000 shares of COLOB DC at 348 20 spot 9, T plus 3, and has also asked -- in 21 the following sentence, there is an 22 instruction to sell 500,000 shares of COLOB 23 DC at 348 spot 9, T plus 3. 24 Q Did ED&F comply with this 25 instruction or request?</p>
Page 299	Page 300
<p>1 MR. BINDER: Objection to form. 2 A Can I see the rest of the document? 3 Q Sure. 4 A (Witness reviewing.) 5 Q Any luck, Mr. Hashemi? 6 A Sorry. So going through the 7 documents in this tab, I don't know if that's 8 all of the documents in relation to this 9 transaction. But having looked -- I haven't 10 gone ahead or before in this tab, but I don't 11 see -- I can't -- withdrawn. Let me 12 rephrase. 13 Based on the documents in this tab, 14 which is 266 in Volume 7, I don't see any 15 further e-mails in relation to these two 16 instructions. 17 Q Are you familiar with the term 18 "wash trade" in the industry, sir? 19 MR. BINDER: Objection to form, 20 outside the scope of his testimony as a 21 corporate representative. 22 A I've heard of the term. 23 Q What does it mean to you, sir? 24 A I don't really know. 25 Q You were in compliance at ED&F for</p>	<p>1 a couple of years. 2 Right? 3 A I worked in the compliance 4 department. 5 Q And then you've been assistant 6 to -- sorry, I don't wish to mischaracterize. 7 What -- remind me what you've been 8 doing since you moved out of the compliance 9 role. 10 A My first role was business manager 11 for the financial futures and options 12 business. And then I became business manager 13 for the EMEA CEO. 14 Q Are you familiar, in any of those 15 roles, with ED&F Man's policy on wash trades? 16 MR. BINDER: Objection, outside the 17 scope of the 30(b)(6) topics in his role 18 as corporate representative. 19 A Mr. Oxford, I don't remember right 20 now. 21 Q Okay. Can you turn, please, to 22 your Binder 3? It's Tab 46? 23 MR. OXFORD: Neil, it's 24 Exhibit 4168. 25 A Binder 3, Tab --</p>

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18 (Pages 301 to 304)

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<p>1 Q Forty-six.</p> <p>2 A Okay.</p> <p>3 Q You should have a two-page memo.</p> <p>4 The first page ends in Bates 853.</p> <p>5 A Yeah, first page ends in 853.</p> <p>6 Q Okay. So this is a document</p> <p>7 produced by ED&F Man in response to requests</p> <p>8 by the FCA as part of their investigation.</p> <p>9 Have you seen this document before,</p> <p>10 sir?</p> <p>11 A (Witness reviewing.)</p> <p>12 I don't recall seeing this document</p> <p>13 before.</p> <p>14 Q It wasn't part of your preparation</p> <p>15 for this deposition today and yesterday?</p> <p>16 A Sorry. Say that again?</p> <p>17 Q It wasn't part of your preparation</p> <p>18 for the deposition today and yesterday?</p> <p>19 A I don't recall seeing this document</p> <p>20 before.</p> <p>21 Q Okay. Do you see at the bottom of</p> <p>22 the first page, just above the diagram, it</p> <p>23 says, "MCM's understanding of MPT's trading</p> <p>24 strategy in respect of the relevant</p> <p>25 transactions was for MPT to enter a short</p>	<p>1 sale of stock to an interdealer broker and</p> <p>2 hedge that sale by buying a future in the</p> <p>3 same stock."</p> <p>4 Do you see that?</p> <p>5 A I can see that's what the document</p> <p>6 says.</p> <p>7 Q Do you know where -- what the</p> <p>8 source of MCM's understanding is?</p> <p>9 MR. BINDER: Objection to form.</p> <p>10 A No, I'm not sure.</p> <p>11 Q Okay. Could you turn the page,</p> <p>12 please? And I direct your attention to the</p> <p>13 first paragraph on the top of Page 2.</p> <p>14 It says, "Some days later, MPT</p> <p>15 would buy stock from an IDB and this time</p> <p>16 hedge the purchase by selling a future."</p> <p>17 Do you see that?</p> <p>18 A I can see that's what the document</p> <p>19 says, yeah.</p> <p>20 Q Okay. Then, after the diagram</p> <p>21 below, it says, "The sale and purchase of the</p> <p>22 stock would be executed with the same</p> <p>23 settlement date, which meant that MPT had a</p> <p>24 covered short position."</p> <p>25 Do you see that?</p>
Page 303	Page 304
<p>1 A Yes, I can see that's what it says.</p> <p>2 Q Do you know what that means?</p> <p>3 A (Witness reviewing.)</p> <p>4 Further to what the document says,</p> <p>5 Mr. Oxford, I've nothing to add.</p> <p>6 Q Okay. So other than reading and</p> <p>7 the words on the page, you can't give us any</p> <p>8 information about the contents of this memo?</p> <p>9 A (Witness reviewing.)</p> <p>10 No, nothing, nothing further.</p> <p>11 Q Okay. Just one last question.</p> <p>12 The next sentence says, "Therefore,</p> <p>13 as MPT effectively held a matched position,</p> <p>14 MPT did not need to hold a long position or</p> <p>15 borrow the stock."</p> <p>16 Do you see that, sir?</p> <p>17 A (Witness reviewing.)</p> <p>18 I can see that's what it says.</p> <p>19 Q And beyond reading the words on the</p> <p>20 page, are you able to give us any information</p> <p>21 about what that means?</p> <p>22 A (Witness reviewing.)</p> <p>23 No, I can't right now.</p> <p>24 Q Okay. That's all for that</p> <p>25 document, sir.</p>	<p>1 Can I ask you, please, to turn to</p> <p>2 your Binder 7, Exhibit 27 -- it's either "3"</p> <p>3 or "5," I'm just looking for confirmation in</p> <p>4 the room. But if you get there, by the time</p> <p>5 you get to the 270s, I will have an answer</p> <p>6 for you.</p> <p>7 MR. OXFORD: It's 4395.</p> <p>8 (Whereupon the above mentioned was</p> <p>9 marked for Identification.)</p> <p>10 Q I think it's 280, Tab 280, sir. It</p> <p>11 should be the "Re-Amended Defense of</p> <p>12 ED&F Man."</p> <p>13 A I've got Tab 280, but it doesn't</p> <p>14 appear to be what you're saying it is.</p> <p>15 Q Okay. Bear with me one second. I</p> <p>16 appear to have messed up my numbers again.</p> <p>17 So it's Exhibit 4391, and it is</p> <p>18 Tab 275 in your Binder 7.</p> <p>19 Please, can you let me know if that</p> <p>20 is the "Re-Amended Defense?"</p> <p>21 A Yeah. Tab 275 says "Re-Amended</p> <p>22 Defense."</p> <p>23 Q Great.</p> <p>24 Are you familiar with this</p> <p>25 document, sir?</p>

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19 (Pages 305 to 308)

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1 A (Witness reviewing.)
 2 I believe I've seen a version,
 3 Mr. Oxford, but I don't know if it's this
 4 exact one.
 5 Q Okay. I'll represent to you that
 6 this is the version that Rosenblatt filed in
 7 the English case.
 8 Can I turn your attention, please,
 9 to Page 4? There should be, just towards the
 10 bottom, there's a Paragraph 4.2 beginning,
 11 "No misstatements."
 12 A Okay. I'm on Page 4.
 13 Q Okay. Great.
 14 This paragraph says, "No
 15 misstatements. With respect to the tax
 16 vouchers, with respect -- with the exception
 17 of the nine identified at Annex A hereto and
 18 the 80 identified at Annex E hereto, any
 19 representations made thereby were accurate as
 20 evidenced by the contemporaneous documentary
 21 records retained by ED&F Man in respect of
 22 the ED&F Man applications."
 23 Do you see that?
 24 A Yes, I see that.
 25 Q Do you have an understanding of

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1 what that statement is intended to convey?
 2 A It's saying that, with the
 3 exception of the Annex A tax vouchers and the
 4 Annex E tax vouchers, that the
 5 representations made were accurate.
 6 Q And are you able to tell us
 7 anything about the reasons why ED&F believes
 8 the representations other than Annex E and
 9 Annex A are accurate?
 10 MR. BINDER: You're referring to
 11 the representations in the tax vouchers,
 12 Neil?
 13 MR. OXFORD: Yes.
 14 A I'm sorry, Mr. Oxford. Could you
 15 ask your question again, please?
 16 Q Yeah. Let me try and ask a better
 17 one, actually.
 18 A That's fine, if you could repeat
 19 it.
 20 Q I reserve the right to be smarter
 21 now than I was a second ago. Time will tell
 22 whether that's true or not.
 23 Can you tell me, please, what
 24 ED&F Man did to assure itself that the
 25 representations, other than on the Annex E

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1 and Annex A tax vouchers -- so the remaining
 2 tax vouchers -- were accurate?
 3 A So on the basis of the trade packs
 4 which I reviewed, and which weren't the
 5 Annex A or Annex E, they included all the
 6 relevant information -- allow me to rephrase.
 7 They included supporting
 8 information to the tax voucher that was
 9 produced by ED&F Man to include the trade
 10 instructions, the trade confirms, both for
 11 the security and the hedge, and it included
 12 SWIFT messages showing the securities being
 13 received, and it also included SWIFT
 14 messages -- MT 566s, I believe -- showing the
 15 dividend being received from the company.
 16 In the event that there wasn't an
 17 MT 566 from the company and there was a -- a
 18 market recall, in those packs there are the
 19 correspondence of the dividend being paid by
 20 the counterparty whose name was on the -- on
 21 the record on the record date, and had the
 22 sufficient information to confirm that the
 23 tax vouchers were accurate.
 24 Q So did ED&F do any investigation
 25 beyond compiling the trade packs?

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1 MR. BINDER: Objection to form.
 2 A I'm not sure right now.
 3 Q Did the -- withdrawn.
 4 You gave us a list of documents
 5 that were contained in the non-Annex E trade
 6 packs a few moments ago.
 7 Correct?
 8 A I did, yes.
 9 Q Were those or similar documents
 10 also contained in the Annex E trade packs
 11 that ED&F compiled?
 12 A There would have been some of those
 13 documents in there. However, the one that
 14 I -- or the ones that I specifically referred
 15 to, the SWIFT messages from the sub-custodian
 16 banks, showing the dividends being received.
 17 And in the event that the SWIFT
 18 messages weren't there, there are
 19 correspondence with the counterparties whose
 20 name was on the record on the record date,
 21 and then showing the dividend being paid.
 22 And there were also the cash
 23 statements and the cash entries showing the
 24 dividends being received.
 25 Q Okay.

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20 (Pages 309 to 312)

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<p>1 A Yes.</p> <p>2 Q Do you remember the question you</p> <p>3 were answering, sir?</p> <p>4 A I did at the time of answering.</p> <p>5 Q It was a long time ago, several</p> <p>6 seconds.</p> <p>7 My question was: When you gave me</p> <p>8 a list of documents that were contained in</p> <p>9 the non-Annex E trade packs -- do you</p> <p>10 remember that?</p> <p>11 A Yes.</p> <p>12 Q Were those or similar documents</p> <p>13 also contained in the Annex E trade packs?</p> <p>14 A So I explained that some of them</p> <p>15 would be similar. But the one that I</p> <p>16 referred to or the ones about the dividends</p> <p>17 being received, issued from the company or in</p> <p>18 the market recall, wouldn't be in the Annex E</p> <p>19 packs.</p> <p>20 Q Any other differences between the</p> <p>21 Annex E and non-Annex E trade packs in terms</p> <p>22 of material documentation in your testimony,</p> <p>23 sir?</p> <p>24 A From the ones that I can remember</p> <p>25 at the moment, Mr. Oxford, would be the cash</p>	<p>1 account entries showing the dividends coming</p> <p>2 from -- from the market counterparty or the</p> <p>3 company.</p> <p>4 Q Anything else?</p> <p>5 A Not that I remember at this moment</p> <p>6 in time.</p> <p>7 Q Okay. Can we agree that the</p> <p>8 Annex E trades were all cum ex trades?</p> <p>9 MR. BINDER: Objection to form,</p> <p>10 lacks foundation.</p> <p>11 A I don't know, Mr. Oxford.</p> <p>12 Q Do you know whether</p> <p>13 ED&F -- withdrawn.</p> <p>14 Do you know whether the defendant</p> <p>15 plans did cum ex trades that resulted in</p> <p>16 vouchers that are not on Annex E?</p> <p>17 MR. BINDER: Objection to form.</p> <p>18 Objection to form, and also</p> <p>19 mischaracterizes the evidence.</p> <p>20 A I don't know.</p> <p>21 Q Do you know whether ED&F did</p> <p>22 anything to determine whether the</p> <p>23 counterparties to the non-Annex E cum ex</p> <p>24 transactions had a right to the relevant</p> <p>25 Danish shares on the trade dates, and so did,</p>
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<p>1 in fact, receive dividends from the</p> <p>2 underlying Danish company?</p> <p>3 A As I mentioned, Mr. Oxford, the</p> <p>4 information in the trade packs of the</p> <p>5 non-Annex E trades included the SWIFT</p> <p>6 messages confirming the receipt of the</p> <p>7 dividend. And if -- if the -- if the</p> <p>8 dividend was then paid to the counterparty</p> <p>9 whose name was on the record sheet on the</p> <p>10 record date, then there is the</p> <p>11 confirmation -- sorry -- the correspondent of</p> <p>12 that dividend being paid. And also there's</p> <p>13 the cash statements which reflect that, which</p> <p>14 shows that the dividends were paid.</p> <p>15 And the SWIFTS, the other SWIFTS</p> <p>16 also show that the securities were received.</p> <p>17 Q And what did ED&F do to assure</p> <p>18 itself that the counterparties in those</p> <p>19 non-Annex E cum ex transactions were not in</p> <p>20 the exactly the same position as MPT Dubai?</p> <p>21 MR. BINDER: Objection to form,</p> <p>22 lacks foundation. Also mischaracterizes</p> <p>23 the documents and misstates evidence.</p> <p>24 MR. OXFORD: I think actually</p> <p>25 you've missed -- I think there's a</p>	<p>1 rulebook somewhere. I think you missed</p> <p>2 one or two objections if you were trying</p> <p>3 to go bingo.</p> <p>4 A The -- Mr. Oxford, the SWIFT</p> <p>5 messages show that the dividend had been</p> <p>6 issued by the company and received. And the</p> <p>7 cash statements reflect the receipt of the</p> <p>8 dividend.</p> <p>9 Q Beyond that, do you have anything</p> <p>10 to add to your answer?</p> <p>11 A Not that I remember right now.</p> <p>12 Q Okay. Are you familiar with</p> <p>13 Annex -- a document called "Annex A?"</p> <p>14 A Would I be able to see it?</p> <p>15 Q I think almost certainly. But</p> <p>16 let's just start with my question.</p> <p>17 A As I said, I've seen many, many</p> <p>18 documents. I'm not sure, right now, exactly</p> <p>19 which one it is.</p> <p>20 Q Okay. Can you then turn to your</p> <p>21 Binder 7?</p> <p>22 A Yeah.</p> <p>23 Q It's Exhibit 275. It's what we</p> <p>24 just looked at, actually.</p> <p>25 It's the "Re-Amended Defense?"</p>

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21 (Pages 313 to 316)

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<p>1 A Okay.</p> <p>2 Q And at the end of the pleading, you</p> <p>3 recall we looked at Annex E?</p> <p>4 MR. BINDER: What exhibit are we</p> <p>5 talking about?</p> <p>6 MR. OXFORD: 4395 -- no, 4391. I</p> <p>7 get that wrong every single time. My</p> <p>8 apologies. I'm sorry. 4391.</p> <p>9 Q Do you have it there, sir?</p> <p>10 A I have a Tab 275 open.</p> <p>11 Q Great.</p> <p>12 And is that the "Re-Amended</p> <p>13 Defense," sir?</p> <p>14 A On the front page, it says</p> <p>15 "Re-amended Defense."</p> <p>16 Q Okay. Then can you turn to the</p> <p>17 back and go to Annex A?</p> <p>18 A Yeah. Bear with me. Okay.</p> <p>19 Q Okay. You're with me, sir? It's</p> <p>20 the first annex to the "Re-Amended Defense?"</p> <p>21 They have, I think, "Annex A Incorrect Tax</p> <p>22 Vouchers."</p> <p>23 A Yes, I can see the title says that.</p> <p>24 Q Okay. Are you familiar with this</p> <p>25 document, sir?</p>	<p>1 A (Witness reviewing.)</p> <p>2 As I said, I've seen so many</p> <p>3 documents, I'm sure I've seen it. But I</p> <p>4 don't recall it right now.</p> <p>5 Q Okay. Do you have any information</p> <p>6 about why these tax vouchers are incorrect?</p> <p>7 A Bear with me, please.</p> <p>8 (Witness reviewing.)</p> <p>9 Because my understanding, based on</p> <p>10 seeing this table, Annex A, Mr. Oxford, is</p> <p>11 that the actual share holding of the pension</p> <p>12 plans listed in the third column were less</p> <p>13 than the claimed share holding.</p> <p>14 Q Okay. So said differently, did the</p> <p>15 tax vouchers on Annex A over -- withdrawn.</p> <p>16 Is it fair to say that the tax</p> <p>17 vouchers on the Annex A overstated the number</p> <p>18 of shares in Lundbeck that the listed plans</p> <p>19 held?</p> <p>20 MR. BINDER: Objection. I just</p> <p>21 want to say Annex E is not a -- Annex A</p> <p>22 is not a subject of testimony on the</p> <p>23 30(b)(6) notice, I believe. And so it</p> <p>24 would be outside of the scope of his</p> <p>25 testimony as a corporate representative.</p>
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<p>1 MR. OXFORD: Well, I think it is</p> <p>2 within the notice. And we specifically</p> <p>3 listed this trade on Schedule B to the</p> <p>4 notice, Mr. Binder. So respectfully,</p> <p>5 this is clearly within the topic.</p> <p>6 MR. BINDER: Can you point me to</p> <p>7 the paragraph you think is the relevant</p> <p>8 paragraph?</p> <p>9 MR. OXFORD: Yeah. It's</p> <p>10 Schedule B.</p> <p>11 MR. BINDER: On the notice I have,</p> <p>12 I'm not looking -- I don't see a</p> <p>13 schedule. There may be one on some</p> <p>14 other version. So what I see on</p> <p>15 Schedule B is a list of securities, a</p> <p>16 list of corporations. Okay. But</p> <p>17 you -- you're -- okay.</p> <p>18 So for the record, there's nothing,</p> <p>19 there's no topic listed mentioning</p> <p>20 Annex A in any of the topics, and it's</p> <p>21 our position this is beyond the scope of</p> <p>22 his role as a corporate representative</p> <p>23 on behalf of ED&F Man Capital Markets</p> <p>24 Limited.</p> <p>25 MR. OXFORD: Okay. Well, if you</p>	<p>1 look at -- just for example, there are</p> <p>2 many others -- but if you look at 19,</p> <p>3 for example, Topic 19 says, "The tax</p> <p>4 vouchers, including the representations</p> <p>5 made by ED&F contained in the tax</p> <p>6 vouchers." So respectfully, Neil,</p> <p>7 you're dead wrong.</p> <p>8 Q Okay. Mr. Hashemi, I believe after</p> <p>9 that fascinating colloquy, there was a</p> <p>10 question somewhere.</p> <p>11 MR. OXFORD: Mike would you mind --</p> <p>12 oh, here we go. I've got it.</p> <p>13 Q Let me just put the question to you</p> <p>14 again, because I imagine that was</p> <p>15 distracting.</p> <p>16 Is it fair to say that the tax</p> <p>17 vouchers on Annex A overstated the number of</p> <p>18 shares in Lundbeck that the listed plans</p> <p>19 held?</p> <p>20 MR. BINDER: Objection.</p> <p>21 A I can see in this table that it</p> <p>22 shows that the claimed share holding was</p> <p>23 greater than the actual share holding by the</p> <p>24 pension plans in the third column.</p> <p>25 Q So is the answer to my question</p>

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22 (Pages 317 to 320)

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1 "yes?"

2 MR. BINDER: Objection.

3 A Can you ask the question again
4 please, Mr. Oxford?

5 Q Okay. Sure. Third time.

6 Is it fair to say that the tax
7 vouchers in Annex A overstated the number of
8 shares in Lundbeck that the listed plans
9 held?

10 MR. BINDER: Objection.

11 A What I can see here is that the
12 claimed share holding is greater than the
13 actual share holdings of the pension plans.14 Q So the answer to my question is --
15 it yes or no?

16 MR. BINDER: Objection.

17 A I don't know.

18 MR. OXFORD: Okay. So just to
19 complete our record, Mr. Binder, this
20 table -- this trade is also in the table
21 of trades which we've marked as Exhibit
22 4366, or is in the binder as Exhibit
23 4366, which Mr. Smith of Hughes, Hubbard
24 & Reed sent to you on April 30th of this
25 year. So the idea that this is beyond

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1 the scope is beyond the pale.

2 Q Do you have any information,

3 Mr. Hashemi, about how ED&F came to issue
4 these incorrect tax vouchers on Annex A?5 (Whereupon the above mentioned was
6 marked for Identification.)

7 MR. BINDER: Objection.

8 A I don't recall right now.

9 Q Do you know when ED&F discovered
10 that the vouchers were incorrect?11 A I believe it would have been when
12 ED&F's attorneys were doing their -- their
13 work in relation to this.14 Q Okay. What's that belief based on,
15 sir?16 A From my understanding from when I
17 was preparing, from conversations with ED&F's
18 attorneys.19 Q So ED&F's attorneys told you as
20 part of your preparation for this 30(b)6,
21 sir, that the incorrect nature of the tax
22 vouchers on Annex A was discovered when?

23 Like at what point in time?

24 MR. BINDER: Objection to form,
25 asked and answered.

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1 A Based on my preparation and
2 conversations, Mr. Oxford, my understanding
3 is that it was when ED&F's attorneys were
4 carrying out their work.5 Q And what period of time was that?
6 After SKAT brought litigation?7 MR. BINDER: Objection to form,
8 vague.

9 A I'm not sure.

10 Q In fact, ED&F was aware of these
11 errors on the Annex A tax vouchers way back
12 in 2013.

13 Is that not the case?

14 MR. BINDER: Objection to form.
15 Leading, lacks foundation.16 MR. OXFORD: A leading question on
17 cross examination? That's absolutely
18 objectionable.

19 Q Can you answer my question, sir?

20 MR. BINDER: We're not defendants
21 in your lawsuit, Mr. Oxford.22 A Can you ask me the question again,
23 please, Mr. Oxford?

24 Q Sure.

25 In fact, ED&F was aware of these

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1 errors on the Annex A tax vouchers way back
2 in 2013?3 MR. BINDER: Objection, leading,
4 mischaracterizes prior testimony.

5 A I don't know, Mr. Oxford.

6 Q Okay. Can I ask you, please, to
7 turn to Exhibit 4423?8 (Whereupon the above mentioned was
9 marked for Identification.)

10 Q Which is in your Binder 7 at 308.

11 A Sorry. Which tab?

12 Q 308.

13 A Okay. Okay. Tab 308.

14 Q Okay. Sorry. I mislabeled that
15 particular document.16 Do you have that document in front
17 of you, sir?

18 A Tab 308, right?

19 Q Tab 308. It should be -- the first
20 page has Bates ending 769?

21 A Yeah, ends in 769, yeah.

22 Q You see this is an e-mail from
23 Marcus Howard to a number of other people at
24 ED&F Man. And the subject is "Danish Tax
25 Reclaims, Arunvill."

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23 (Pages 321 to 324)

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<p>1 Do you see that?</p> <p>2 A I see that, yes.</p> <p>3 Q And this e-mail is sent on July 3,</p> <p>4 2013.</p> <p>5 Correct?</p> <p>6 A The e-mail was sent on July 3,</p> <p>7 2013.</p> <p>8 Could I just make a point,</p> <p>9 Mr. Oxford? I said yes to people at</p> <p>10 ED&F Man. I don't actually recognize all of</p> <p>11 those names.</p> <p>12 But based on the way that they are,</p> <p>13 I said yes.</p> <p>14 Q But the date of this, we can agree</p> <p>15 the date is back in 2013.</p> <p>16 Correct?</p> <p>17 A Yes. The 3rd of July, 2013.</p> <p>18 Q Terrific. And Mr. Howard writes,</p> <p>19 "Please can you move the difference of</p> <p>20 312,120 DKK to Suspense and clearly label</p> <p>21 this as, quote, Excess Credit Received From</p> <p>22 Danish Tax Reclaim in LUN DC, quotes? We</p> <p>23 will advise what to do with that in due</p> <p>24 course."</p> <p>25 Do you see that, sir?</p>	<p>1 A I see that's what the document</p> <p>2 says.</p> <p>3 Q Okay. You didn't see this document</p> <p>4 as part of your preparation for today?</p> <p>5 A As I've said, I've seen a lot of</p> <p>6 documents. But at this moment in time, I</p> <p>7 don't recall this one right now.</p> <p>8 Q Okay. Do you know what SKAT</p> <p>9 did with -- withdrawn.</p> <p>10 Do you know what ED&F Man did with</p> <p>11 the excess funds that they had claimed from</p> <p>12 SKAT in relation to the Annex A vouchers?</p> <p>13 MR. BINDER: Objection to form,</p> <p>14 mischaracterizes the evidence, lacks</p> <p>15 foundation.</p> <p>16 A I don't know.</p> <p>17 Q You would have expected ED&F to</p> <p>18 return the money to SKAT, I assume?</p> <p>19 MR. BINDER: Objection to form,</p> <p>20 mischaracterizes the evidence, lacks</p> <p>21 foundation.</p> <p>22 A I don't know, Mr. Oxford.</p> <p>23 Q Okay. Can I ask you to turn to</p> <p>24 Exhibit 4424?</p> <p>25 (Whereupon the above mentioned was</p>
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<p>1 marked for Identification.)</p> <p>2 Q In your binder, sir, it is Tab 309</p> <p>3 in Binder 7, so just the next page over.</p> <p>4 A Yeah.</p> <p>5 Q Have you seen this document before?</p> <p>6 A (Witness reviewing.)</p> <p>7 I do not recall seeing this exhibit</p> <p>8 document before.</p> <p>9 Q Okay. The initial e-mail is</p> <p>10 written by Michael Meade. He's the guy at</p> <p>11 ED&F responsible for preparing tax vouchers.</p> <p>12 Correct?</p> <p>13 A I believe so.</p> <p>14 Q And he created all of the Annex E</p> <p>15 and non-Annex E tax vouchers as well.</p> <p>16 Correct?</p> <p>17 MR. BINDER: Objection to form.</p> <p>18 A (Witness reviewing.)</p> <p>19 I know that Michael Meade</p> <p>20 was -- prepared the tax vouchers.</p> <p>21 Q And he also prepared the Annex A</p> <p>22 tax vouchers.</p> <p>23 Correct?</p> <p>24 MR. BINDER: Objection to form.</p> <p>25 A I understand that he prepared the</p>	<p>1 tax vouchers.</p> <p>2 Q He writes, "After investigation, it</p> <p>3 transpires that this is an excess amount</p> <p>4 after a tax reclaim on LUN DC." It's the</p> <p>5 shorthand for Lundbeck.</p> <p>6 "The full tax reclaim of DKK</p> <p>7 312,120 was posted on March 7th" -- oh sorry.</p> <p>8 "It was posted on 3/7/13 with only 306,600</p> <p>9 Danish kroner being debited from the account</p> <p>10 on 25, 7, 13."</p> <p>11 Do you see that?</p> <p>12 A I can see that's what the e-mail</p> <p>13 says.</p> <p>14 Q Do you know what the reference to</p> <p>15 306,600 kroner is?</p> <p>16 A I do not.</p> <p>17 Q Okay. Who is Christina MacKinnon?</p> <p>18 A Christina MacKinnon was an employee</p> <p>19 of ED&F Man and her role was head of the</p> <p>20 securities operations team, I think.</p> <p>21 Q And Ms. MacKinnon writes that "the</p> <p>22 excess should be posted to P&L."</p> <p>23 Do you see that?</p> <p>24 A I can see that the e-mail says,</p> <p>25 "Please post this amount to P&L, please."</p>

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24 (Pages 325 to 328)

<p style="text-align: right;">Page 325</p> <p>1 Q Okay. "P&L" is a reference to 2 profit and loss, isn't it? 3 A It's what the e-mail says. 4 I -- typically I refer to it as profit and 5 loss. 6 But that's what the e-mail says. 7 Q Fair to assume she's talking about 8 ED&F's profit and loss? 9 MR. BINDER: Objection to form. 10 A I don't know. 11 Q Okay. Let's take a break. Let's 12 go off the record. 13 THE VIDEOGRAPHER: Stand by. The 14 time is 9:40 a.m. New York time and 15 we're going off the record. 16 (Brief recess taken.) 17 THE VIDEOGRAPHER: Stand by. The 18 time is 10:08 a.m. New York time and 19 we're back on record. 20 Q Mr. Hashemi, just before we went 21 back on, I understand from your counsel that 22 you have a correction to make to your 23 testimony. 24 A I do, yes. Mr. Oxford, you asked 25 me about -- a number of questions about</p>	<p style="text-align: right;">Page 326</p> <p>1 Annex A, and I got confused. 2 And I just wanted to state that 3 I don't actually know anything about Annex A. 4 Q Annex A was not part of your 5 preparation for the testimony today? 6 A No. 7 Q Okay. Can you please turn to 8 Exhibit 4430, which was the draft of the 9 Agreed Schedule of Facts that was provided to 10 us last night by Mr. Binder, with a 11 representation that that was the version of 12 the document that you had reviewed as part of 13 your preparation for your testimony? 14 MR. OXFORD: Mr. Binder, please, of 15 course, tell me if that representation 16 is incorrect. 17 MR. BINDER: So I will say yes, 18 this is the document that Mr. Hashemi 19 had in his preparation. But also, just 20 so the record is clear, this is 21 obviously a document that SKAT and its 22 counsel had as well during the course 23 of -- you know, for quite some time. We 24 didn't produce this document in this 25 litigation. This was a document we all</p>
<p style="text-align: right;">Page 327</p> <p>1 had, right? 2 MR. OXFORD: Understood, clear, no 3 suggestion to the contrary. I think we 4 just were trying to clear up 5 certain -- basically version control 6 between the version we had marked 7 yesterday and a version of the same 8 document, which I freely acknowledge was 9 negotiated and drafted between counsel 10 for SKAT in England and counsel for 11 ED&F Man in England. 12 (Whereupon the above mentioned was 13 marked for Identification.) 14 Q Okay. So with that violate 15 agreement in place, can you take a look, 16 please, at Exhibit 4430, Mr. Hashemi? 17 A Okay. I have it in front of me. 18 Q Can you confirm that is, in fact, 19 the version of the -- that is, in fact, a 20 version of the draft Schedule of Agreed Facts 21 that you reviewed in preparation for your 22 deposition? 23 A (Witness reviewing.) 24 Yes, it appears to be the version 25 that I had reviewed.</p>	<p style="text-align: right;">Page 328</p> <p>1 Q Okay. Are you aware of any 2 incorrect statements in this document? 3 A (Witness reviewing.) 4 I'm not aware of any incorrect 5 statements in this document. 6 Q Okay. So, from ED&F's point of 7 view, the statements in here, you believe, 8 are accurate? 9 A This document reflects ED&F Man's 10 position. 11 Q Okay. Thank you. That's helpful. 12 So can I ask you just to quickly 13 turn to Paragraphs 20 and 2 -- sorry, 21 and 14 22, which are on Page 6 of the document? 15 A Okay. 16 Q And the heading is "B-5 Contractual 17 Documentation." 18 Do you see that? 19 A I do. 20 Q And then it lists five agreements 21 that were -- withdrawn. 22 It says, "In relation to the 23 services provided by ED&F Man, ED&F Man and 24 each pension plan or GP." 25 Do you know what the reference to</p>